

**Application No. 09/881,040****Docket No. 30003033-02 (1509-188)****REMARKS**

Applicants thank the Examiner for the thorough consideration given the present application. Claims 1, 7-11 and 13-42 are pending.

The independent claims are amended to clarify temporal refinements thereof and to assure infringement of apparatus claims when the goods are sold. In addition, independent claims 1 and 18 are amended to require the customized program instance for the token to be distinct from the location data, while independent claims 28 and 40 are amended to require the service token to be distinct from the location data. Independent claims 28 and 40 are further amended to make it clear that the check carried out by the service provider system with respect to the party from which the service token originates is a check with respect to the party that has qualified the user and provided the service token, and is not a check on the user. In the described embodiment (see the description of FIG. 9), this is achieved by having the party that qualifies the user digitally sign the service token.

Claims 1, 8-11 and 13-27, particularly as amended, are not obvious as a result of Valentine et al. (U.S. 6,011,973) and Suzuki (U.S. 6,129,274). Valentine simply discloses enabling or disabling a cell phone in dependence on its location. In one embodiment, data relating to the allowed areas of operation of a phone are stored in a memory 150 of the phone. The phone has a location device 130 (e.g., a GPS receiver) which a controller 120 uses to determine when the phone is in an area where operation is authorized as indicated by the data stored in memory 150. When in such an area, the controller 120 enables operation of the phone.

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In a second embodiment, the cell phone still has a location device 130; but the phone location, as determined by device 130, is sent to a mobile phone infrastructure for comparison with stored location data indicative of where operation of the phone is authorized. If the phone is in an authorized area of operation, the infrastructure returns an authorization signal that enables operation of the phone.

A user can subscribe to enable operation of the cell phone in one or more telephone service areas 200, 210 (see column 4), which implies that the data indicating the authorized areas of operation are stored on a subscriber basis.

The following differences exist between claim 1 and Valentine:

(1) Valentine does not disclose triggering execution of an executable program as set forth in step (b) of claim 1 because Valentine is only concerned with enabling or disabling cell phone operation.

(2) Valentine does not disclose the claim 1 requirement for conducting a transaction and, thereafter, storing location data and a user-associated instance of an executable program for implementing a particular service, wherein the program instance is customized for the transaction and is distinct from the location data. In Valentine, it appears that when a user buys a cell phone and subscribes with an operator to use the phone in one or more telephone service areas, data are stored indicative of the authorized areas of operation. However, Valentine has no suggestion that an executable program customized to the transaction is also stored.

The first three lines on page 3 of the Action state that "Valentine further teaches a program...updated...for the transaction, for implementing the particular service." This

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portion of the Office Action states that an updated program is the same as a customized user-associated instance of an executable program. Applicants do not understand what the Office Action can mean in making such a statement. The only thing which can possibly differ between subscribers in Valentine is the data concerning the areas of permitted operation. This data can only be equated to the location data of claim 1. This is not the same as an executable program that is triggered to provide the service associated with the transaction. The location data are used to trigger program instance execution and therefore are clearly distinct from the program instance itself. To remove any doubt, claim 1 now explicitly states that the location data and program instance are distinct from each other.

In referring to Suzuki, the Office Action admits Valentine does not clearly disclose "conducting a transaction of a user purchasing a service or product". As indicated above, it is inherent that a user will have conducted a transaction of purchasing the cell phone and/or subscribing to a cell phone operator. In any case, Suzuki adds nothing to the argument in the Office Action concerning Valentine, nor does Suzuki do anything to reduce the above-noted differences between claim 1 and the prior art.

The following differences exist between amended claim 28 and Valentine:

(1) Claim 28 requires storing both location data and a service token, the service token being distinct from the location data. In Valentine, only location data are stored when a user subscribes to a mobile phone operator. The first three lines on page 8 of the Office Action state that the location information corresponds to the service token of

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claim 28, but Valentine fails to disclose a service token that is distinct from location information.

(2) Claim 28 states that after the mobile entity reaches a location indicated by the location data, the service token is sent to a service provider system. In the second embodiment of Valentine, data is sent from the cell phone. This data represents the current location of the cell phone, and it is sent periodically to a mobile phone infrastructure to enable the latter to determine whether the phone is in an authorized area of operation. Thus, Valentine does not disclose passing either (1) a stored service token from the mobile entity to a service provider system (even if the location information is taken to be the service token), or (2) data from a mobile entity in response to the location of the mobile entity matching the location indicated by the location data.

(3) Valentine does not check that the party which qualified the user as entitled to receive the service is a party for which it is willing to provide service delivery.

Claims 28, 29, 31, and 33-42, particularly as amended, are not rendered obvious by Valentine in combination with Scroggie et al (U.S. 6,185,541).

The Office Action combines Valentine and Scroggie to reject independent claim 28, upon which claims 29, 31, and 33-39 depend, and to reject independent claim 40, upon which claims 41 and 42 depend. Scroggie is relied on as allegedly demonstrating the use of a service identifier. Contrary to the assertion in the Office Action, there is no obvious reason to combine Valentine and Scroggie. The above-noted differences between the independent claims 28 and 40 and Valentine are so major that even if the

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Office Action were correct in its arguments concerning Scroggie, the position articulated in the Office Action still falls far short of a realistic obviousness attack. I can't fix this

In view of the foregoing amendment and the remarks, allowance is in order.

The Examiner is invited to telephone the undersigned to facilitate advancement of the present application.

To the extent necessary, a petition for an extension of time under 37 C.F.R. §1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including application processing, extra claims, and extension fees, to Deposit Account 08-2025, and please credit any excess fees to such deposit account.

Respectfully submitted,

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